

SS SCS SB 572 -- WORKERS' COMPENSATION

SPONSOR: Dempsey (Richardson)

COMMITTEE ACTION: Voted "do pass" by the Committee on Workforce Development and Workplace Safety by a vote of 8 to 5.

This substitute changes the laws regarding workers' compensation. In its main provisions, the substitute:

- (1) Specifies that every employer who is subject to the workers' compensation provisions of Chapter 287, RSMo, must be liable to furnish compensation for the personal injury or death of an employee by occupational disease arising out of and in the course of the employee's employment, and that an occupational disease is exclusively covered under workers' compensation laws;
- (2) Specifies that an employee will not be liable for a co-employee's workplace injury or death for which compensation is recoverable under the workers' compensation laws, except that an employee will not be released from liability for injury or death if the employee engaged in an affirmative negligent act that purposefully and dangerously caused or increased the risk of injury;
- (3) Specifies that a civil action involving an accidental injury or death filed by an employee or an employee's dependent against an employer or an employee of the employer cannot proceed until all administrative remedies under Chapter 287 are exhausted. The filing of a notice of the administrative action with the court will toll any statute of limitation or other time limitation regarding the civil action;
- (4) Specifies that when a third person is liable to an employee or a dependent of an employee when there is a finding that an occupational disease was caused by toxic exposure as defined in the substitute and the employee or dependents were compensated under Chapter 287, the employer will not be subrogated to the rights of the employee or the dependents against the third person when the employer caused the occupational disease; and
- (5) Increases the death benefit for an employee from \$5,000 to \$10,000.

The substitute contains an emergency clause.

FISCAL NOTE: Estimated Net Income on General Revenue Fund of Unknown in FY 2013, FY 2014, and FY 2015. Estimated Net Income on Other State Funds of Unknown in FY 2013, FY 2014, and FY 2015.

PROPONENTS: Supporters say that the strict interpretation of the workers compensation laws by the courts requires these proposed changes. The bill contains the exact language suggested by the court.

Testifying for the bill were Senator Dempsey; Missouri Chamber of Commerce and Industry; Associated Industries of Missouri; Missouri Retailers Association; Missouri Grocers' Association; Missouri Insurance Coalition; National Federation of Independent Business; Missouri Merchants and Manufacturers Association; Greater Kansas City Chamber of Commerce; St. Louis Regional Chamber and Growth Association; Builders Association of Missouri; Property Casualty Insurance Association of America; Missouri Self Insurers Association; Missouri Restaurant Association; Missouri Propane Gas Association; Waste Corporation; and Associated Builders and Contractors.

OPPONENTS: Those who oppose the bill say that the provision that would "stay" any civil action until all administrative remedies are exhausted is probably unconstitutional because the legislature cannot enact a statute that changes the state constitution. That provision also is detrimental to employees because it could coerce an employee to settle a workers' compensation claim on less beneficial terms than that which the employee might otherwise settle in order to be able to begin the civil litigation more quickly.

Testifying against the bill were Philip Hess and Andrew O'Brien, Missouri Association of Trial Attorneys; Missouri AFL-CIO; and United Steelworkers District 11.